

Pursuant to the Court's June 8, 2022 order (ECF No. 42), the parties respectfully submit this Joint Status Report.

In July 2021, shortly after the U.S. Supreme Court denied the petition for writ of certiorari (No. 20-1162) and the Government’s conditional cross-petition (No. 20-1432) in *Maine Community Health Options v. United States*, which sought review of the Federal Circuit’s CSR decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020), the parties began discussions regarding the next steps in this litigation. Several different attorneys, collectively representing a large number of plaintiff health plans—including the plaintiff here—engaged Government counsel in discussions regarding potential resolution of the CSR matters through settlement.

The parties' resolution efforts are progressing. On December 3, 2021, Plaintiffs' counsel shared a proposal with the Government to attempt to collectively resolve the damages and mitigation issues in the CSR cases without further litigation or to significantly streamline resolution of the remaining damages/mitigation issues in these cases. On April 28, 2022, the

Government responded to Plaintiffs' proposal, and Plaintiffs responded on May 23, 2022.

Thereafter, the parties have convened by phone multiple times, and the Government produced certain settlement-related data and other information to the plaintiffs on July 22, 2022. Most recently, the parties participated in a settlement-related call on September 1, 2022, and the CSR Plaintiffs followed that call with a letter to the Government on September 15, 2022. The Government responded to CSR Plaintiffs by letter dated November 10, 2022, and the CSR Plaintiffs' offered a counter-proposal via letter on January 10, 2023. The Government is currently reviewing that proposal.

The parties respectfully request that the stay of this matter continue for an additional 45 days, at which time the parties will file a joint status report. Good cause exists for the Court to continue the existing stay of this case. The parties are working together to determine whether they may efficiently resolve this matter without further litigation or can at least streamline the damages and mitigation issues in this case. The complexity of the CSR cases and the large number of interested stakeholders, necessitates that the parties be afforded additional time to complete these efforts. The parties therefore jointly propose that, pursuant to the Court's June 8 order, they file a status report by March 3, 2023, in which the parties will update the Court on the status of their efforts to resolve this matter.

January 17, 2023

/s/ Stephen McBrady  
Stephen McBrady  
CROWELL & MORING LLP  
1001 Pennsylvania Avenue, NW Washington, DC  
20004  
Telephone: (202) 624-2500  
Facsimile: (202) 628-5116  
SMcBrady@crowell.com

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY  
Director

s/ Claudia Burke  
CLAUDIA BURKE  
Assistant Director

OF COUNSEL:

Charles Baek

CROWELL & MORING LLP  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004

Counsel for Plaintiff

s/ Albert S. Iarossi  
Senior Trial Counsel  
Commercial Litigation Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 480  
Ben Franklin Station  
Washington, DC 20044  
Telephone: (202) 307-3390  
Email: [albert.s.iarossi@usdoj.gov](mailto:albert.s.iarossi@usdoj.gov)

OF COUNSEL:

DAVID M. KERR  
Trial Attorney

Civil Division  
U.S. Department of Justice

Counsel for Defendant